

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Anya S. Duke,

Plaintiff

v.

Esq. Mary-Anne Miller, *et al.*,

Defendants

2:15-cv-00404-JAD-CWH

Order Denying Motion to Proceed *in Forma Pauperis* [ECF 6], Adopting Report and Recommendation [ECF 8], Overruling Objections [ECF 9], and Denying Motion for Status Check [ECF 9]

Pro se plaintiff Anya S. Duke sues defendants for injuries she allegedly sustained while litigating in Clark County District Court when a courtroom door struck her in the face.¹ This is Duke's third *in forma pauperis* request.² Magistrate Judge Hoffman denied Duke's first two requests without prejudice as incomplete.³ Finding that Duke's latest application contains sufficient information to make a recommendation, Judge Hoffman recommends that I deny it.⁴ Duke objects. She submits a new calculation of monthly expenses that now exceeds her monthly income by \$190. Duke's new expenditures include things like \$190 per month for internet and cable, \$120 per month for "Laundry/cleaning alternatives," and \$40 per month for charitable contributions.⁵ Having reviewed Judge Hoffman's findings and conclusions *de novo*, I adopt his report and recommendation, deny Duke's application, and overrule her objections.

Discussion

To prevail on a motion to proceed *in forma pauperis*, a plaintiff need not show that she is completely destitute; she must show that, because of her poverty, she cannot pay the filing fee and

¹ ECF 1-1.

² ECF 1, 3, 6.

³ ECF 2, 5.

⁴ ECF 8.

⁵ ECF 9 at 3.

1 still provide herself and her dependents with the “necessities of life.”⁶ A “showing of something
 2 more than mere hardship must be made.”⁷ The benefits and other assets listed by Duke total
 3 \$4,807.00. That is well above the median household income in this state, and she has no
 4 dependents.⁸ I therefore agree with Judge Hoffman that Duke has not shown a financial inability to
 5 pay the filing fee, even with the new information attached to her objections. Other courts have
 6 denied applications with a much greater showing of financial hardship than shown here.⁹

7 **Conclusion**

8 Accordingly, IT IS HEREBY ORDERED that plaintiff’s Motion for Status Check [ECF 10]
 9 is **DENIED** as moot.

10 IT IS FURTHER ORDERED that plaintiff’s objections [ECF 9] are **OVERRULED** and
 11 Magistrate Judge Hoffman’s Report and Recommendation [ECF 8] is **ACCEPTED** and his findings
 12 and conclusions are **ADOPTED**.

13 IT IS FURTHER ORDERED that plaintiff’s Application to Proceed *in Forma Pauperis*
 14 [ECF 6] is **DENIED**. Plaintiff must pay the \$400 filing fee by December 7, 2015, or this case will
 15 be dismissed without prejudice.

16 Dated this 6th day of November, 2015

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 19 Jennifer A. Dorsey
 20 United States District Judge
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⁶ *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339–40 (1948).

⁷ *Martin v. Gulf States Utilities Co.*, 221 F. Supp 757, 759 (W.D. La. 1963).

⁸ <<http://quickfacts.census.gov/qfd/states/32000.html>> (Median household income in Nevada 2009–2013 \$52,800).

⁹ See e.g., *Crawford v. Kern Cnty. School Dist. Bd. of Trustees*, 2010 WL 1980246, *2 (C.D. Cal. 2010) (denying application on showing that family of five had an annual income of over \$51,000); *Matter of Anderson*, 130 B.R. 497, 500 (W.D. Mich. 1991) (denying application when plaintiff earned \$950 per month and poverty level in Michigan was \$6,520 per year).